

CASE No. 22-15260

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

THE ESTATE OF ISABELLA “BELLA”, et al.

Appellants,

vs.

NETFLIX, INC.

Appellee.

Appeal From The United States District Court,
Northern District of California, Case No. 4:21-cv-06561-YGR,
Hon. Yvonne Gonzalez Rogers

**DECLARATION OF BLANCA F. YOUNG IN SUPPORT OF APPELLEE
NETFLIX, INC.’S RESPONSE TO APPELLANTS’ MOTION FOR EXTENSION
OF TIME TO FILE APPELLANTS’ OPENING BRIEF & EXCERPTS OF
RECORD**

MUNGER, TOLLES & OLSON LLP
Blanca F. Young
560 Mission Street
Twenty-Seventh Floor
San Francisco, California 94105-2907
Telephone: (415) 512-4000
Facsimile: (415) 512-4077

MUNGER, TOLLES & OLSON LLP
Jennifer L. Bryant
Cory M. Batza
350 South Grand Avenue
Fiftieth Floor
Los Angeles, California 90071-3426
Telephone: (213) 683-9100
Facsimile: (213) 687-3702

Attorneys for Appellee NETFLIX, INC.

DECLARATION OF BLANCA F. YOUNG

I, Blanca F. Young, declare as follows:

1. I am a partner at Munger, Tolles & Olson LLP and counsel of record for Appellee Netflix, Inc. in this matter. I make this declaration in support of Netflix's opposition to Appellants' motion for an additional 30-day extension of time to file their opening brief. The contents of this declaration are based on my personal knowledge. If called as a witness, I could and would testify competently to the facts in this declaration.

2. The outside counsel team representing Netflix in this matter consists of three outside attorneys—myself and two of my colleagues.

3. Attached as Exhibit 1 hereto is a true and correct ECF notice that I received in connection with Appellant's filing of their Motion For Extension of Time to File Appellant's Opening Brief & Excerpts of Record, time stamped at 11:58:22 pm Pacific Time on September 19, 2022.

4. Appellants' counsel first contacted me to let me know that Appellants would be requesting an additional 30-day extension (beyond the 30-day extension they had already received via a streamlined extension request) at 1:47pm on September 19, 2022. In response to my questions about the basis for Appellants' request, Appellants' counsel did not mention that legislation had recently been

enacted that may be relevant to the appeal and that they needed additional time to address that legislation in connection with preparing their brief. Attached as Exhibit 2 hereto is a true and correct copy of emails between myself and Appellants' counsel about the basis for their extension request. For reasons unknown to me, perhaps because Mr. Grimm is located in a different time zone, the emails in the attached email chain from me to him on September 19, 2022 are marked two hours ahead of when I sent them Pacific time. For example, I sent an email to Mr. Grimm at 5:20 pm Pacific time, to which he replied at 5:21 pm Pacific time, but my email is marked as having been sent at 7:20pm.

I declare under penalty of perjury under the laws of the United States and the State of California that foregoing is true and correct, and that this declaration was executed on September 20, 2022 in San Francisco, California

DATED: September 20, 2022

MUNGER, TOLLES & OLSON LLP

By: s/ Blanca F. Young
BLANCA F. YOUNG
Attorneys for Appellee NETFLIX, INC.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Dated: September 20, 2022

Respectfully submitted,

s/ Blanca F. Young
BLANCA F. YOUNG

EXHIBIT 1

From: ca9_ecfnoticing@ca9.uscourts.gov
To: [Young, Blanca](#)
Subject: 22-15260 The Estate of Isabella "Bella", et al v. Netflix, Inc. "Motion for any Type of Relief (Other than Reconsideration or to Seal)"
Date: Monday, September 19, 2022 11:59:20 PM

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 09/19/2022 at 11:58:22 PM Pacific Daylight Time and filed on 09/19/2022

Case Name: The Estate of Isabella "Bella", et al v. Netflix, Inc.

Case Number: [22-15260](#)

Document(s): [Document\(s\)](#)

Docket Text:

Filed (ECF) Appellants John Herndon, J.H., T.H. and The Estate of Isabella "Bella" Herndon Motion to extend time to file Opening brief until 10/19/2022. Date of service: 09/19/2022. [12543986] [22-15260] (Grimm, Andrew)

Notice will be electronically mailed to:

Blanca Young, Attorney: blanca.young@mto.com, robyn.bird@mto.com
Mr. Andrew Grimm: andrew@digitaljusticefoundation.org, agrimm3@gmail.com
Ryan Andrew Hamilton, Attorney: ryan@hamlegal.com, daniel@hamlegal.com
Mr. Gregory William Keenan, Counsel: gregory@digitaljusticefoundation.org, gwkeenan24@gmail.com
Cory Batza, Attorney General: cory.batza@mto.com, juana.guevara@mto.com, dkf-filings@mto.com
Rory Lawrence Stevens: rorystevens@hotmail.com
Jennifer Bryant, Attorney: jennifer.bryant@mto.com

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: Herndon v Netflix 2022-09-19 9th Cir R 31-2-2 Extension Request.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1106763461 [Date=09/19/2022] [FileNumber=12543986-0]
[a0355dc94657f95061889d0a76b4cc64b8bff9b7dd2aaf9297d7849a07bdc78e64b83878cefee9097edbb8c5d3b31a795e4e3206b9d5b32f55bfa64eca90ed62]]

EXHIBIT 2

Bird, Robyn

From: Andrew Grimm <andrew@digitaljusticefoundation.org>
Sent: Monday, September 19, 2022 5:40 PM
To: Young, Blanca
Cc: XT Lemoine, Mindy; Gregory Keenan; Ryan A. Hamilton
Subject: RE: Herndon v. Netflix - Extension

A time-sensitive filing in a case that required learning an entire new area of law, bankruptcy, on a short timeframe, related to an appeal we're doing in the Eighth Circuit.

There was also an unexpected delay in getting materials from the other side in a Tenth Circuit appeal.

And, again, our appeal was still in mediation until Thursday.

I'll pass along the good wishes to our lead counsel. Please let me know your position. Thanks.

Best regards,

Andrew Grimm
Attorney
DIGITAL JUSTICE FOUNDATION
(531) 210-2381
digitaljusticefoundation.org
Email: andrew@digitaljusticefoundation.org

From: Young, Blanca <Blanca.Young@mto.com>
Sent: Monday, September 19, 2022 8:36 PM
To: Andrew Grimm <andrew@digitaljusticefoundation.org>
Cc: XT Lemoine, Mindy <mlemoine@netflix.com>; Gregory Keenan <gregory@digitaljusticefoundation.org>; Ryan A. Hamilton <Ryan@hamlegal.com>
Subject: RE: Herndon v. Netflix - Extension

Thanks Andrew. What were the unexpected demands that made it impossible for you to make a timely request for an extension? You will need to tell the Ninth Circuit, so please tell us so that we can consider your position.

Best, Blanca

P.S. congratulations on your marriage. I am not agreeing that a honeymoon is a basis for an additional 30-day extension, but I don't mean that to diminish the happiness of the occasion.

Blanca F. Young ([she/her/hers](#)) | Munger, Tolles & Olson LLP
560 Mission Street | San Francisco, CA 94105
Tel: 415.512.4019 | Fax: 415.512.4077 | Blanca.Young@mto.com | www.mto.com

From: Andrew Grimm <andrew@digitaljusticefoundation.org>
Sent: Monday, September 19, 2022 5:21 PM
To: Young, Blanca <Blanca.Young@mto.com>
Cc: XT Lemoine, Mindy <mlemoine@netflix.com>; Gregory Keenan <gregory@digitaljusticefoundation.org>; Ryan A. Hamilton <Ryan@hamlegal.com>
Subject: RE: Herndon v. Netflix - Extension

Hi Blanca,

Plaintiffs are seeking 30 days. There are three reasons:

1. Lead counsel had a honeymoon in the period.
2. The case was released from mediation this past Thursday.
3. There were substantial unexpected demands in the recent timeframe.

Please let me know you client's position. Thanks.

Best regards,

Andrew Grimm
Attorney
DIGITAL JUSTICE FOUNDATION
(531) 210-2381
digitaljusticefoundation.org
Email: andrew@digitaljusticefoundation.org

From: Young, Blanca <Blanca.Young@mto.com>
Sent: Monday, September 19, 2022 7:20 PM
To: Andrew Grimm <andrew@digitaljusticefoundation.org>
Cc: XT Lemoine, Mindy <mlemoine@netflix.com>; Gregory Keenan <gregory@digitaljusticefoundation.org>; Ryan A. Hamilton <Ryan@hamlegal.com>
Subject: RE: Herndon v. Netflix - Extension

Hi Andrew,

What basis do plaintiffs have for this request, how much time are they seeking, and why have they waited until the day their brief is due to raise this issue instead of complying with Circuit Rule 31-2.2(b)?

Best, Blanca

Blanca F. Young ([she/her/hers](#)) | Munger, Tolles & Olson LLP
560 Mission Street | San Francisco, CA 94105
Tel: 415.512.4019 | Fax: 415.512.4077 | Blanca.Young@mto.com | www.mto.com

From: Andrew Grimm <andrew@digitaljusticefoundation.org>
Sent: Monday, September 19, 2022 1:47 PM
To: Young, Blanca <Blanca.Young@mto.com>
Cc: XT Lemoine, Mindy <mlemoine@netflix.com>; Gregory Keenan <gregory@digitaljusticefoundation.org>; Ryan A. Hamilton <Ryan@hamlegal.com>
Subject: Re: Herndon v. Netflix - Extension

Hi Blanca,

My client intends to ask an extension for his opening brief today.

Could you please let me know your client's position on the extension as soon as possible?

Thanks so much.

-Andrew

From: Young, Blanca <Blanca.Young@mto.com>
Sent: Saturday, August 13, 2022 12:26 PM
To: Andrew Grimm <andrew@digitaljusticefoundation.org>
Cc: XT Lemoine, Mindy <mlemoine@netflix.com>; Gregory Keenan <gregory@digitaljusticefoundation.org>; Ryan A. Hamilton <Ryan@hamlegal.com>
Subject: Re: Herndon v. Netflix - Transcript for Redactions

You should be able to order your own a copy from the court reporter. I believe they charge each side for copies and I don't want to cheat the reporter out of their fee. If I'm mistaken about that I would be happy to send you a copy, but I'd ask that you first contact the court reporter to confirm.

On Aug 13, 2022, at 6:27 AM, Andrew Grimm <andrew@digitaljusticefoundation.org> wrote:

Blanca,

When you have a chance early next week, could you send us a pdf copy of the transcript of the January hearing? We need to review it for possible redactions.

Best regards,

Andrew Grimm
Attorney
DIGITAL JUSTICE FOUNDATION
(531) 210-2381
digitaljusticefoundation.org
Email: andrew@digitaljusticefoundation.org